



**UNITED STATES DEPARTMENT OF COMMERCE  
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/164,793	10/01/98	WATT	P JJM-381

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QM12/0915

EXAMINER

JACKSON, G

ART UNIT

PAPER NUMBER

3731

DATE MAILED:

09/15/99

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.

09/164,793

Applicant(s)

WATT ET AL.

Examiner

Jackson, Gary

Art Unit

3731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- 1) ☒ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some \* c) ☐ None of the CERTIFIED copies of the priority documents have been:
1. ☐ received.
2. ☐ received in Application No. (Series Code / Serial Number) \_\_\_\_.
3. ☐ received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

## Attachment(s)

- 14) ☐ Notice of References Cited (PTO-892)
- 15) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 16) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 04.
- 17) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 18) ☐ Notice of Informal Patent Application (PTO-152)
- 19) ☐ Other:

*Gary Jackson*  
GARY JACKSON  
PRIMARY EXAMINER  
GROUP 3000

Art Unit: \*\*\*

### ***Drawings***

This application has been filed with informal drawings, which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a), which forms the basis for all obviousness rejections, set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Igaki et al (U.S. Patent 5,843,096) in view of Artandi (U.S. Patent 3,157,524) and Haynes et al (U.S. Patent 5,660,857). The patent to Igaki et al discloses a tube having one end closed formed of chitin. However, a sponge texture is not clearly disclosed. The patents to Artandi and Haynes et al disclose the concept of forming collagen material with sponge-like texture for the medical purposes. It would have obvious to one having ordinary skill in the art to form the tube of Igaki et al tube of a biopolymer sponge formed from collagen. Further, it is well known in the art to include therapeutic compounds in surgical implants as recited in claim 5. Concerning claim 5, since Igaki et al discloses a tube, it would have been obvious since the size the tube according to intended use.

Art Unit: \*\*\*

**Conclusion**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Cooper et al 5,575,803, Francis et al 5,752,965, Igaki et al 5,766,188, and Oi et al 5,814,057 all U.S. Patents.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary Jackson whose telephone number is (703) 308-4302. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Buiz can be reached on (703) 308-0871. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-2708 for regular communications and (703) 308-3579 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-0858.

Gary Jackson  
September 12, 1999

*Gary Jackson*  
GARY JACKSON 9/12/99  
PRIMARY EXAMINER  
GROUP 3000